



## STAFF REPORT ACTION REQUIRED

### 2009 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors

<b>Date:</b>	May 15, 2009
<b>To:</b>	Executive Committee
<b>From:</b>	Acting Treasurer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2009\Internal Services\rev\ec09017rev (AFS#8955)

#### **SUMMARY**

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This report seeks Council authority for the introduction of the by-law necessary to levy and collect taxes for the 2009 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, totalling approximately \$7.8 million in taxation revenue, of which the municipal share is \$6.6 million and the provincial share is \$1.2 million.

#### **RECOMMENDATIONS**

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**The Acting Treasurer recommends that:**

1. Council authorize the levy and collection of taxes for the 2009 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, in accordance with subsection 280(1) of the *City of Toronto Act, 2006* and subsection 257.7 (1) of the *Education Act*;
2. Authority be granted for the introduction of the necessary bill to give effect thereto; and,
3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

## **Financial Impact**

The 2009 levy of taxes on railway roadways and rights of way and on power utility transmission or distribution corridors will raise approximately \$7.8 million in taxation revenue, of which the municipal share is \$6.6 million and the provincial share is \$1.2 million.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

At its meeting held on July 25, 26 and 27, 2006, City Council, in authorizing the 2006 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (Re: Report 6, Clause 19 of the Policy and Finance Committee), resolved that:

*the Minister of Finance be approached with a request that:*

- i. Regulation 387/98 and 392/98 be amended to require an annual inflationary adjustment in the “mature rate”; and*
- ii. the “mature rate” prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time, be reviewed.*

The report of July 2006 Council meeting can be accessed at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/pof6rpt/cl019.pdf>

At its meeting held on June 19, 20 and 22, 2007, City Council, in authorizing the 2007 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (Re: Executive Committee Report EX9.5), re-iterated its July 2006 recommendations with respect to this matter.

The report and the decision document of June 2007 Council can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-3804.pdf>  
<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-06-19-cc10-dd.pdf>

At its meeting held on June 23 and 24, 2008 City Council, in authorizing the 2008 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors, adopted the following motions (re: Executive Committee Report EX21.14) :

- 1. City Council re-iterate its 2007 request that the City re-iterate its July 2007 recommendations and that the Mayor’s Office enter into discussions with the Province to advance the City’s submissions respecting:*

- i. *Regulations 387/98 and 392/98 be amended to require an annual inflationary adjustment in the “mature rate”; and*
  - ii. *the “mature rate” prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time, be reviewed,*
2. *City Council direct the Treasurer to levy full commercial taxes against all railway properties that are leased to third parties.*

The report and decision document can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-13226.pdf>  
<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-06-23-cc22-dd.pdf>

To date, the City has not received a response from the Minister, and no changes have been made to the legislative or regulatory provisions to incorporate Council’s requests for changes to the “mature” rates. Despite Council’s July 2006, June 2007 and June 2008 resolutions, no legislative authority exists for the City to levy a tax rate other than that permitted by the provincial regulation for 2009.

With respect to lands leased by railway companies to third parties, the report above confirmed that where portions of the railway right of way are leased to a third party, the Municipal Property Assessment Corporation (MPAC) assigns a separate roll number and assesses the land as commercial on the return of the roll. On these portions, the railway company remains as the assessed owner and continues to be responsible for property taxes.

## **ISSUE BACKGROUND**

Ontario Regulations 387/98 under the *Municipal Act, 2001* and 392/98, under the *Education Act*, as amended, have prescribed the applicable rates for railway and power utility rights of way acreage levies since 1998. Beginning in 1998 and ending in 2005, the Province prescribed what were termed “transition rates” each year, to phase-in changes to the taxation level of these right of way properties, until a uniform rate was reached in 2005. The acreage tax rates established in 2005 are called ‘mature rates’ and are intended to apply to all years beyond 2005 and O.Reg. 121/07 has made the municipal rates similarly applicable to the City of Toronto.

## **COMMENTS**

Subsection 280(1) of the *City of Toronto Act, 2006* requires the City, in accordance with the regulations, to levy an annual tax for municipal purposes on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities.

Subsection 257.7(1) of the *Education Act* requires the city to levy and collect taxes based on the rates prescribed for school purposes on the railway and power utility lands described in subsection 280(1) of the *City of Toronto Act, 2006*.

Ontario Regulation 121/07 under the *City of Toronto Act, 2006* and 392/98 under the *Education Act*, (as amended by O. Reg 123/07), prescribe the applicable rates for 2009 for the municipal portion and education portion of taxes respectively, for railway and power utility rights of way acreage levies.

To calculate the taxes payable on acreage properties, the City of Toronto requires the area of each property and the applicable tax rates. The acreage figures are provided to municipalities by the Municipal Property Assessment Corporation (MPAC) on the returned assessment roll each year and are available for 2009.

The tax rates set out in Table 1 below are the applicable rates for 2009 for railway roadways and rights of way and power utility transmission and distribution corridors.

Table 1  
**Rates to be levied for 2009 on Railway Roadways or Rights of Way and on Power Utility Transmission or Distribution Corridors**

Company	Municipal Taxes Per Acre (iii)	Education Taxes Per Acre (iv)	Total Taxes Per Acre
Canadian National Railway	\$611.33	\$822.69	\$1,434.02
Canadian Pacific Railway	\$611.33	\$822.69	\$1,434.02
Greater Toronto Transit Authority – (GO Transit) (i)	\$611.33	\$0.00	\$611.33
Power Utility – Hydro One (ii)	\$834.02	\$1,208.66	\$2,042.68

- (i) *Greater Toronto Services Board Act, 1998* exempted the real property owned by the Greater Toronto Transit (GO Transit) from education taxes. Pursuant to the *GO Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is exempt from property taxes but subject to payment-in-lieu of taxes.
- (ii) As certified by the Ministry of Consumer and Commercial Relations in May 2000, the name of the corporation 'Ontario Hydro Networks Company Inc.' was changed to 'Hydro One Networks Inc'.
- (iii) Based on O. Reg. 121/07 under the *City of Toronto Act, 2006*.
- (iv) Based on O. Reg. 392/98, as amended, under the *Education Act, 1990*.

The estimated revenue for 2009 from all the railway and power utility rights of way is approximately \$7.8 million, of which the municipal share is \$6.6 million and the education share is \$1.2 million. Of the \$6.6 million municipal share, \$81,202.96 will be received in the form of payment-in-lieu of taxes from GO Transit. Pursuant to the *GO Transit Act, 2001*, as of January 1, 2002, GO Transit became a Crown Agency of the Province, which it remains under the *Greater Toronto Transportation Authority Act*. It is now exempt from property taxes but subject to a payment-in-lieu of taxes.

## **CONTACT**

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## **SIGNATURE**

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Giuliana Carbone  
Acting Treasurer